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HOUSE BILL 3295
By Kisber

AN ACT to amend Tennessee Code Annotated, Title 4; Title 5; Title 6; Title 7; Title 13; Title 49; Title 67 and Title 68, relative to growth.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. As used in this act, unless the context otherwise requires:

(1) "Committee" means the local government planning advisory committee established by §4-3-727.

(2) "Council" means the joint economic and community development council established by Section 17 of this act.

(3) "Growth Plan" means the plan each county must file with the committee by July 1, 2001, as required by the provisions of Section 8.

(4) "Rural area" means an area established in conformance with the provisions of Section 7(c) and approved in accordance with the requirements of Section 5.

(5) "Urban Growth Area" means an area established in conformance with the provisions of Section 7(b) and approved in accordance with the requirements of Section 5.

(6) "Urban Growth Boundary" means a line encompassing territory established in conformance with the provisions of Section 7(a) and approved in accordance with the requirements of Section 5.

SECTION 2. Tennessee Code Annotated, Title 6, is amended by adding Sections 3 through 17 as a new chapter 58.

SECTION 3. With this act, the general assembly intends to establish a comprehensive growth policy for this state that:

(1) Eliminates annexation or incorporation out of fear;

(2) Establishes incentives to annex or incorporate where appropriate;

(3) More closely matches the timing of development and the provision of public services;

(4) Stabilizes each county's education funding base and establishes an incentive for each county legislative body to be more interested in education matters; and

(5) Minimizes urban sprawl.

SECTION 4. The provisions of this chapter shall not apply to any county having a metropolitan form of government. Provided, however, each county having a metropolitan form of government shall receive benefit of the incentives available pursuant to Sections 10, 11 and 18.

SECTION 5. (a)(1) Each municipality shall identify its urban growth boundaries in conformance with the provisions of Section 7. In identifying such urban growth boundaries, the municipality is strongly advised and encouraged to collaborate with the affected county and with all other municipalities located or proposing to be located within such county. Such urban growth boundaries shall be endorsed by majority vote of the municipal legislative body, except to the extent that alternative urban growth boundaries are adopted for the municipality by a dispute resolution panel or by the local government planning advisory committee. On or before July 1, 2001, the municipality shall obtain approval of its urban growth boundaries in accordance with the provisions of subsections (c) and (d).

(2) The municipality's urban growth boundaries may not overlap the urban growth boundaries of any other municipality. In order to avoid any such overlap, the affected municipalities shall attempt to resolve such dispute through negotiation. If, after reasonable efforts, such negotiations do not resolve the dispute, then the affected municipalities may declare the existence of an impasse and submit the overlapping urban growth boundaries for resolution in accordance with the provisions of subsection (c). In attempting to resolve any such dispute, due consideration shall be given if one of the municipalities clearly appears to be better situated to efficiently and effectively provide urban services within the disputed territory; due consideration shall also be given if one of the municipalities detrimentally relied upon priority status conferred under prior annexation law and, thereby, justifiably incurred significant expense in preparation for annexation of the disputed territory.

(b) Each county shall identify its urban growth areas and rural areas in conformance with the provisions of Section 7. In identifying such urban growth areas and rural areas, the county is strongly advised and encouraged to collaborate with all municipalities located or proposing to be located within the county. Such urban growth areas and rural areas shall be endorsed by majority vote of the county legislative body, except to the extent that alternative urban growth areas and/or alternative rural areas are adopted for the county by a dispute resolution panel or by the local government planning advisory committee. On or before July 1, 2001, the county shall obtain approval of its urban growth areas and rural areas in accordance with the provisions of subsection (d).

(c) On or before July 1, 2001, each municipality shall submit its urban growth boundaries for approval by the legislative body for the county in which the urban growth territory is located. If urban growth boundaries are timely submitted to, but are not adopted by, the county legislative body because of conflicts with urban growth areas or

rural areas or for any other reason, then the county legislative body and the affected municipality or municipalities shall attempt to resolve such disputes through negotiation. If, after reasonable efforts, one or more of the disputes remain unresolved, then the county legislative body or any one or more of the affected municipalities may declare the existence of an impasse and may request the secretary of state to provide an alternative method for resolution of such disputes. Upon receiving such request, the secretary of state shall promptly appoint a dispute resolution panel. The panel shall consist of three (3) members, each of whom shall be appointed from the ranks of the administrative law judges employed within the administrative procedures division and each of whom shall possess formal training in the methods and techniques of dispute resolution and mediation. No member of such panel, nor the immediate family of any such member or such member's spouse, may be a resident, property owner, official or employee of the county or of any municipality located or proposing to be located within such county. All such unresolved disputes affecting territory within such county shall be consolidated and assigned to such panel. The panel shall attempt to mediate the unresolved disputes. If, after reasonable efforts, mediation does not resolve such disputes, then the panel shall propose a non-binding resolution thereof. The county legislative body and the affected municipality or municipalities shall be given a reasonable period in which to consider such proposal. If the county legislative body and the affected municipality or municipalities do not accept and endorse such resolution, then they may submit final recommendations to the panel. For the sole purpose of resolving the impasse, the panel shall identify and adopt alternative urban growth boundaries for the affected municipalities and/or alternative urban growth areas and/or alternative rural areas for the county. The alternative urban growth boundaries, urban growth areas and/or rural areas adopted by the panel shall conform with the provisions of Section 7; shall supersede and replace all conflicting urban growth boundaries endorsed by the municipal legislative

body or bodies and all conflicting urban growth areas and/or rural areas endorsed by the county legislative body; and shall be submitted for approval in accordance with the provisions of subsection (d). The secretary of state shall certify the reasonable and necessary costs incurred by the dispute resolution panel, including, but not necessarily limited to, salaries, supplies, travel expenses and staff support for the panel members. The county and each of the affected municipalities shall reimburse the secretary of state for such costs, to be allocated on a pro rata basis calculated on the number of persons residing within each of the affected municipalities and the number of persons residing within the unincorporated areas of the county; provided, however, if the dispute resolution panel determines that the dispute resolution process was necessitated or unduly prolonged by bad faith or frivolous actions on the part of the county and/or any one or more of the municipalities, then the secretary of state may, upon the recommendation of the panel, reallocate liability for such reimbursement in a manner clearly punitive to such bad faith or frivolous actions. Until the county or municipality reimburses its allocated or reallocated share of panel costs to the secretary of state, the county or municipality shall be deemed to be in non-compliance with the requirements of this section.

(d) On or before July 1, 2001, urban growth boundaries, urban growth areas and rural areas approved by the county legislative body or alternatively adopted by a dispute resolution panel shall be submitted to and approved by the local government planning advisory committee. **IF** urban growth boundaries throughout the county were endorsed by the respective municipal legislative bodies, **AND IF** such urban growth boundaries were submitted to and approved by the county legislative body, **AND IF** the urban growth areas and rural areas throughout the county were endorsed by the county legislative body, **THEN** the committee shall grant its approval and such urban growth boundaries, urban growth areas and rural areas shall immediately become effective. In

all other cases, **IF** the local government planning advisory committee determines that such urban growth boundaries, urban growth areas and rural areas conform with the provisions of Section 7, **THEN** the committee shall grant its approval and such urban growth boundaries, urban growth areas and rural areas shall immediately become effective; **HOWEVER, IF** the committee determines that such urban growth boundaries, urban growth areas and/or rural areas in any way do not conform with the provisions of Section 7, **THEN** the committee shall adopt and grant its approval of alternative urban growth boundaries, urban growth areas and/or rural areas for the sole purpose of making the adjustments necessary to achieve conformance with the provisions of Section 7. Such alternative urban growth boundaries, urban growth areas and/or rural areas shall supersede and replace all conflicting urban growth boundaries, urban growth areas and/or rural areas and shall immediately become effective.

SECTION 6. (a) The affected county, an affected municipality, a resident of such county or an owner of real property located within such county is entitled to judicial review under this section, which shall be the exclusive method for judicial review of urban growth boundaries, urban growth areas and rural areas. Proceedings for review shall be instituted by filing a petition for review in the chancery court of the affected county. Such petition shall be filed during the sixty (60) day period after final approval of such urban growth boundaries, urban growth areas and rural areas by the committee. In accordance with the provisions of the Tennessee rules of civil procedure pertaining to service of process, copies of the petition shall be served upon the local government planning advisory committee, the county and each municipality located or proposing to be located within the county.

(b) Judicial review shall be de novo and shall be conducted by the chancery court without a jury. The petitioner shall have the burden of proving, by clear and convincing evidence, that the urban growth boundaries, urban growth areas and/or rural areas are invalid because the endorsement, adoption or approval thereof was granted in an arbitrary, capricious,

illegal or other manner characterized by abuse of official discretion. The filing of the petition for review does not itself stay effectiveness of the urban growth boundaries, urban growth areas and rural areas; however, the court may order a stay upon appropriate terms if it is shown to the satisfaction of the court that any party or the public at large is likely to suffer significant injury if such stay is not granted. If more than one suit is filed within the county, than all such suits shall be consolidated and tried as one.

(c) **IF** the court finds by clear and convincing evidence that the urban growth boundaries, urban growth areas and/or rural areas are invalid because the endorsement, adoption or approval thereof was granted in an arbitrary, capricious, illegal or other manner characterized by abuse of official discretion, **THEN** an order shall be issued vacating the same, in whole or in part, and remanding the same to the county and the affected municipalities in order to identify and obtain endorsement, adoption and/or approval of urban growth boundaries, urban growth areas and/or rural areas in conformance with the procedures set forth within Section 5.

(d) Any party to the suit, aggrieved by the ruling of the chancery court, may obtain a review of the final judgment of the chancery court by appeal to the court of appeals of Tennessee.

SECTION 7.

(a)

(1) The urban growth boundaries of a municipality shall:

(A) Identify territory that is reasonably compact;

(B) Identify territory that is reasonably contiguous to the existing boundaries of the municipality;

(C) Identify territory that a reasonable and prudent person would project as the likely site of high density commercial, industrial and/or residential growth over the next twenty (20) years based on historical

experience, economic trends, population growth patterns and topographical characteristics;

(D) Identify territory in which the municipality is better situated than other municipalities to efficiently and effectively provide urban services; and

(E) Reflect the municipality's societal duty to facilitate full development of resources within the current boundaries of the municipality and to manage and control urban expansion outside of such current boundaries in a manner which reasonably minimizes detrimental impact to agricultural lands, forests, recreational areas and wildlife management areas.

(2) Before formally identifying urban growth boundaries, the municipality shall develop and report population growth projections, such projections to be developed in conjunction with the municipal technical advisory service. The municipality shall also determine and report the current costs and the projected costs of core infrastructure, urban services and public facilities necessary to facilitate full development of resources within the current boundaries of the municipality and to expand such infrastructure, services and facilities throughout the territory under consideration for inclusion within the urban growth boundaries. The municipality shall also determine and report on the need for additional land suitable for high density, industrial, commercial and residential development, after taking into account all areas within the municipality's current boundaries that can be used, reused or redeveloped to meet such needs. The municipality shall examine and report on agricultural lands, forests, recreational areas and wildlife management areas within the territory under consideration for inclusion within the urban growth boundaries and shall examine and report on the likely long-term

effects of urban expansion on such agricultural lands, forests, recreational areas and wildlife management areas.

(3) Before a municipal legislative body may endorse urban growth boundaries as required by the provisions of Section 5(a)(1), the municipality shall conduct at least one public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the municipality not less than seven (7) days before the hearing.

(b)

(1) Each urban growth area of a county shall:

(A) Identify territory that is reasonably compact;

(B) Identify territory that is not within the existing boundaries of any municipality;

(C) Identify territory that a reasonable and prudent person would project as the likely site of high density commercial, industrial and/or residential growth over the next twenty (20) years based on historical experience, economic trends, population growth patterns and topographical features;

(D) Identify territory that is not contained within urban growth boundaries; and

(E) Reflect the county's societal duty to manage natural resources and to manage and control urban growth in a manner which reasonably minimizes detrimental impact to agricultural lands, forests, recreational areas and wildlife management areas.

(2) Before formally identifying any urban growth area, the county shall develop and report population growth projections, such projections to be developed in conjunction with the county technical assistance service. The county shall also determine and report the projected costs of providing urban type core infrastructure,

urban services and facilities public throughout the territory under consideration for inclusion within the urban growth area as well as the feasibility of recouping such costs by imposition of fees or taxes within the urban growth area. The county shall also determine and report on the need for additional land suitable for high density industrial, commercial and residential development after taking into account all areas within the current boundaries of municipalities that can be used, reused or redeveloped to meet such needs. The county shall also determine and report on the likelihood that the territory under consideration for inclusion within the urban growth area will eventually incorporate as a new municipality or be annexed. The county shall also examine and report on agricultural lands, forests, recreational areas and wildlife management areas within the territory under consideration for inclusion within the urban growth area and shall examine and report on the likely long-term effects of urban expansion on such agricultural lands, forests, recreational areas and wildlife management areas.

(3) Before a county legislative body may endorse urban growth areas, as required by the provisions of Section 5(b), the county shall conduct at least one public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the county not less than seven (7) days before the hearing.

(c)

(1) Each rural area shall:

(A) Identify territory that is not within urban growth boundaries;

(B) Identify territory that is not within an urban growth area;

(C) Identify territory that, over the next twenty (20) years, is to be preserved as agricultural lands, forests, recreational areas, wildlife management areas or for uses other than high density commercial, industrial or residential development;

(D) Identify territory in which sanitary sewer services will not be expanded and in which any license, permit or other regulatory action conducive to high density development will not be granted; and

(E) Reflect the county's societal duty to manage growth and natural resources in a manner which reasonably minimizes detrimental impact to agricultural lands, forests, recreational areas and wildlife management areas.

(2) Before a county legislative body may endorse rural areas as required by the provisions of Section 5(b), the county shall conduct at least one public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the county not less than seven (7) days before the hearing.

SECTION 8. The legislative body of each county and municipality shall, no later than July 1, 2001, prepare or cause to be prepared, adopt, and, from time to time review and amend, a growth plan. The growth plan shall include as a minimum documents describing and depicting municipal corporate limits, as well as urban growth boundaries, urban growth areas and rural areas approved in conformance with the provisions of Section 5. The purpose of a growth plan is to direct the coordinated, efficient, and orderly development of the local government and its environs that will, based on an analysis of present and future needs, best promote the public health, safety, morals and general welfare. A growth plan may address land-use, transportation, public infrastructure, housing, and economic development. The goals and objectives of a growth plan include the need to:

(1) Provide a unified physical design for the development of the local government;

(2) Encourage a pattern of compact and contiguous high density development to be guided into urban or rural growth centers;

(3) Establish an acceptable and consistent level of public services and community facilities and ensure timely provision of those services and facilities;

(4) Promote the adequate provision of employment opportunities and the economic health of the region;

(5) Conserve features of significant statewide or regional architectural, cultural, historical, or archaeological interest;

(6) Protect life and property from the effects of natural hazards, such as flooding, winds, and wildfires; and

(7) Take into consideration such other matters that may be logically related to or form an integral part of a plan for the coordinated, efficient and orderly development of the local government.

SECTION 9. (a) Effective July 1, 1998, a municipality may annex territory by ordinance as provided in Title 6, Chapter 51, only if the county legislative body of the county where the territory is located concurs in the annexation by adopting a resolution within one hundred twenty (120) days of the ordinance taking effect. Provided, however, nothing in this subsection shall be construed to prevent a municipality from proposing extension of its corporate limits by the procedures in §§6-51-104 and 105. Provided, further, a municipality may not annex by ordinance upon its own initiative territory in any county other than the county in which the city hall of the annexing municipality is located unless the municipality includes such territory on July 1, 1998.

(b) A municipality may not annex any other territory if the municipality is in default on any prior plan of services.

(c) If the county does not concur in the annexation by adopting a resolution, the municipality may seek a declaratory judgment in the chancery court body of the county where the territory is located that the failure to adopt the ordinance will:

(1) Materially retard the prosperity of the municipality and the territory; and

(2) Endanger the safety and welfare of the inhabitants and the property.

(d) Any citizen in the territory affected or adjoining the territory affected or the county where the territory is located or any municipality located in the county where the territory is located may be a party to the proceeding as provided in §29-14-107.

(e) If the court without a jury finds that ordinance by clear and convincing evidence satisfies the requirements of subsection (b) the annexation ordinance shall take effect.

SECTION 10. (a) Upon filing its growth plan with the committee, each municipality within the county and the county shall receive an additional five (5) points on a scale of one hundred (100) points or a comparable percentage increase as determined by the commissioner in any evaluation formula for the distribution of grants from the department of economic and community development for the:

(1) Tennessee Industrial Infrastructure Program;

(2) Industrial Training Service Program; and

(3) Community Development Block Grants.

(b) Upon filing its growth plan with the committee, each municipality within the county and the county shall receive an additional five (5) points on a scale of one hundred (100) points or a comparable percentage increase as determined by the commissioner in any evaluation formula for the distribution of grants from the department of environment and conservation for state revolving fund loans for water and sewer systems.

(c) Upon filing its growth plan with the committee, each municipality within the county and the county shall receive an additional five (5) points on a scale of one hundred (100) points or a comparable percentage increase as determined by the executive director in any evaluation formula for the distribution of HOUSE or HOME grants from the Tennessee Housing Development Authority.

SECTION 11. Effective July 1, 2001, the following loan and grant programs shall be unavailable in those counties and municipalities that have failed to submit growth plans to the committee, and shall remain unavailable until growth plans have been submitted:

(1) Tennessee Housing Development Agency Grant Programs;

(2) Community Development Block Grants;

(3) Tennessee Industrial Infrastructure Program Grants;

(4) Industrial Training Service Grants;

(5) State Revolving Fund Loans for water and sanitary sewer systems;

(6) Intermodal Surface Transportation Efficiency Act funds; and

(7) Tourism Development Grants.

SECTION 12. (a) Within a municipality's approved urban growth boundaries, a municipality may use any of the methods in Title 6, Chapter 51 to annex territory. Provided, however, if a quo warranto action is filed to challenge the annexation, the party filing the action has the burden of proving that:

(1) An annexation ordinance is unreasonable for the overall well-being of the communities involved; and

(2) The health, safety, and welfare of the citizens and property owners of the municipality and territory will not be materially retarded in the absence of such annexation.

(b) In any such action, the action shall be tried by the circuit court judge or chancellor without a jury.

(c) A municipality may not annex territory by ordinance beyond its urban growth boundary without following the procedure in subsection (d).

(d)(1) If a municipality desires to annex territory beyond its urban growth boundary, the municipality shall first propose an amendment to its urban growth boundary with the county legislative body under the procedure in Section 5. The municipality proposing the change in its urban growth boundary to accommodate the annexation has the burden of convincing the county legislative body that the proposed is reasonable for the overall well-being of the communities involved and that the health, safety, and welfare of the citizens and property

owners of the municipality and territory will be materially retarded in the absence of such amendment.

(2) As an alternative to proposing a change in the urban growth boundary to the county legislative body, the municipality may annex the territory by referendum as provided in §§6-51-104 and 6-51-105.

SECTION 13. (a) A municipality shall, upon the effective date of annexation, provide the following services within the annexed area at a level commensurate with the level of service provided in the municipality prior to the annexation:

(1) Law enforcement;

(2) Fire protection;

(3) Solid waste disposal;

(4) Street construction and repair;

(5) Access to recreational facilities; and

(6) Zoning;

(b) If a municipality provides water service and a sanitary sewage system, the municipality shall include in its plan of services under §6-51-102(b), a plan of service for water service and sanitary sewage system within the annexed area. The plan shall outline the schedule showing how the municipality will provide water and sewer services within a specified time within the annexed area at a level commensurate with the level of service provided in the municipality before the annexation.

(c) A municipality may not annex any other territory if the municipality is in default on any prior plan of services.

SECTION 14. (a)(1) Effective July 1, 1998, the local share of all revenue generated within the annexed area shall be distributed according to this section.

(2) This section applies to:

(A) The local option sales tax authorized by title 67, chapter 6, part 7;

(B) The wholesale beer tax authorized by title 57, chapter 6; and

(C) The mixed drink tax authorized by title 57, chapter 4, part 3;

(b) It is the responsibility of the municipality accomplishing the annexation and the county within which the annexed territory lies to certify and to provide to the department of revenue a list of all tax revenue producing entities within the proposed annexation area;

(c) The department of revenue shall determine the local share of revenue from each tax listed in subsection (a)(2) generated within the annexed territory for the year before the annexation becomes effective. Such revenue shall be known as the “annexation date revenue”.

(d) The department of revenue shall distribute an amount equal to the annexation date revenue annually to the county in which the annexed area is located;

(e) The department of revenue shall distribute the difference between actual revenue in excess of annexation date revenue to the municipality which accomplishes the annexation;

SECTION 15. (a) Effective July 1, 2001, a new municipal incorporation may only be created in territory approved as an urban growth area in conformance with the provisions of Section 5.

(b) Effective July 1, 2001, a county may provide or contract for the provision of core infrastructure services within an approved urban growth area.

(c) Effective July 1, 2001, a county may set a separate service fee specific to the services provided within an approved urban growth area.

(d) Effective July 1, 2001, a county may set zoning regulations for any particular, approved urban growth area within the county.

SECTION 16. Effective July 1 ,2001, any territory approved as a rural area may not be served by a sanitary sewer system.

SECTION 17.

(a) It is the intent of the general assembly that local governments engage in long-term planning, and that such planning be accomplished through regular

communication and cooperation among local governments, the agencies attached to them, and the agencies that serve them. It is also the intent of the general assembly that the growth plans required by this bill result from communication and cooperation among local governments.

(b) There shall be established in each county a Joint Economic and Community Development Board which shall be established by Interlocal Agreement pursuant to Tennessee Code Annotated, Section 5-1-113. The purpose of the Board shall be to foster communication relative to economic and community development between and among governmental entities, industry, and private citizens.

(c) Each Joint Economic and Community Development Board shall be composed of representatives of county and city governments, private citizens, and present industry and businesses. The final makeup of the Board shall be determined by Interlocal Agreement but shall, at a minimum, include the county executive and the mayor of each city lying within the county. However, in cases where there are multiple cities, smaller cities may have representation on a rotating basis as determined by the Interlocal Agreement.

(d) There shall be an Executive Committee of the Board which shall be composed of members of the Joint Economic and Community Development Board selected by the entire Board. The makeup of the Executive Committee shall be determined by the entire Joint Economic and Community Development Board but shall, at a minimum, include the county executive and the mayors of the largest municipality or municipalities in the county.

(e) The terms of office shall be determined by the Interlocal Agreement but shall be staggered except for those positions held by elected officials whose terms shall coincide with the terms of office for their elected positions. All terms of office shall be for a maximum of four (4) years.

(f) The Board shall meet, at a minimum, four (4) times annually and the Executive Committee of the Board shall meet at least eight (8) times annually. Minutes of all meetings of the Board and the Executive Committee shall be documented by minutes kept and certification of attendance. Meetings of the Joint Economic and Community Development Board and its Executive Committee are subject to the open meetings law.

(g)(1) The activities of the Board shall be jointly funded by the participating governments. The formula for determining the amount of funds due from each participating government shall be determined by adding the population of the entire county as established by the last Federal Decennial Census to the populations of each city as determined by the last Federal Decennial Census, or Special Census as provided for in Section 6-51-114, and then determining the percentage that the population of each governmental entity bears to the total amount.

(2) If a Special Census has been certified pursuant to Tennessee Code Annotated 6-51-114 during the five (5) year period following certification of the last Federal Decennial Census, the formula shall be adjusted by the Board to reflect the result of the Special Census. However, the Board shall only make such an adjustment during the fifth year following the certification of a Federal Decennial Census.

(3) The Board may accept and expend donations, grants and payments from persons and entities other than the participating governments.

(h) An annual budget to fund the activities of the Board shall be recommended by the Executive Committee to the Board which shall adopt a budget before the first day of April of each year. The funding formula established by this act shall then be applied to the total amount budgeted by the Board as the participating governments' contributions for the ensuing fiscal year. The budget and a statement of the amount due

from each participating government shall be immediately filed with the appropriate officer of each participating government. In the event a participating government does not fully fund its contribution, the Board may establish and impose such sanctions or conditions as it deems proper.

(i) When applying for any state grant cities and counties must certify their compliance with the requirements for a Joint Economic and Community Development Board.

SECTION 18. Tennessee Code Annotated, Section 67-2-119, is amended by adding the following new subsection:

(e)(1) Notwithstanding the distribution formula above, effective July 1,1998, the department of revenue shall determine the local share of the tax established by this chapter for fiscal year 1997-1998, and such amount shall be known as the “Hall Income Tax Base Amount”. All revenue in excess of that amount shall be called the “Hall Income Tax Growth Amount” and shall be distributed by the department of revenue to each local education agency on the basis of average daily membership. Each local education agency may spend such funds for any authorized purpose under the basic education program including capital expenditures.

(2) Effective July 1, 2001, the department shall withhold the Hall Income Tax Growth Amount” from any local education agency within a county other than a county having a metropolitan form of government that has not submitted a growth plan. Upon submission of a growth plan to the committee, the distribution of the “Hall Income Tax Growth Amount” on an average daily membership basis shall recommence.

SECTION 19. (a) Tennessee Code Annotated, Section 7-2-101, is amended by adding the following as subdivision (4):

(4) The commission may be created upon receipt of a petition, signed by qualified voters of the county, equal to at least ten percent (10%) of the number of votes cast in the county for governor in the last gubernatorial election.

(A) Such petition shall be delivered to the county election commission for certification. After the petition is certified, the county election commission shall deliver the petition to the governing body of the county and the governing body of the principal city in the county. Such petition shall become the consolidation resolution of the county and the principal city in the county. The resolution shall provide that a metropolitan government charter commission is established to propose to the people the consolidation of all, or substantially all, of the government and corporate functions of the county and its principal city and the creation of a metropolitan government for the administration of the consolidated functions.

(B) Such resolution shall either:

(i) Authorize the county executive or county mayor to appoint ten (10) commissioners, subject to confirmation by the county governing body, and authorize the mayor of the principal city to appoint five (5) commissioners, subject to confirmation by the city governing body; or

(ii) Provide that an election shall be held to select members of the metropolitan government charter commission; provided, however, if the governing body of the county and the governing body of the principal city cannot agree on the method of selecting members of the metropolitan government charter commission within sixty (60) days of certification, then an election shall be held to select members of the metropolitan government charter commission as provided in Section 7-2-102.

(C) It is the legislative intent that the persons appointed to the charter commission shall be broadly representative of all areas of the county and principal city and that every effort shall be made to include representatives from various political, social, and economic groups within the county and principal municipality.

(D) When such resolution shall provide for the appointment of commissioners of the county and city, the metropolitan government charter commission shall be created and duly constituted after appointments have been made and confirmed.

(E) When such resolution shall provide for an election to select members of the metropolitan government charter commission, copies thereof shall be certified by the clerk of the governing bodies to the county election commission, and thereupon an election shall be held as provided in Section 7-2-102.

(F) When the consolidation resolution provides for the appointment of members of the metropolitan government charter commission, such appointments shall be made within thirty (30) days after the resolution is submitted to the governing bodies of the county and the principal city.

(b) Tennessee Code Annotated, Section 7-2-101(1)(B)(i), is amended by deleting the words “presiding officer of the county governing body” and substituting instead the words “county executive or county mayor”.

(c) Tennessee Code Annotated, Section 7-2-101(2)(B), is amended by deleting the words “presiding officer of the county governing body” and substituting instead the words “county executive or county mayor”.

(d) Tennessee Code Annotated, Section 7-2-101(2)(B)(i), is amended by deleting wherever they may appear, the words “presiding officer of the county governing body” and substituting instead the words “county executive or county mayor”.

SECTION 20. Tennessee Code Annotated, Section 6-51-102, is amended by deleting subsection (b) and substituting instead the following:

(b) Before any territory may be annexed under this section by a municipality, the governing body of the municipality shall adopt a plan of service setting forth at a minimum the identification and projected timing of municipal services proposed to be extended into the territory to be annexed. The plan of services shall include, but not be limited to: police protection, fire protection, water service, electrical service, sanitary sewage system, solid waste disposal, road and street construction and repair, recreational facilities, and the zoning services which the municipality shall enact for the territory proposed to be annexed; provided, however, a plan of services may exclude the services which are being provided by another public agency or private company in the territory to be annexed. Before a plan of services may be adopted, the municipality shall submit the plan of services to the local planning commission, if there is one, for study and a written report, to be rendered within ninety (90) days after such submission, unless by resolution of the governing body a longer period is allowed. Before the adoption of the plan of services, a municipality shall hold a public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the municipality not less than seven (7) days before the hearing. The notice shall include the locations of a minimum of three (3) copies of the plan of services which the municipality shall provide for public inspection during all business hours from the date of notice until the public hearing.

SECTION 21. Tennessee Code Annotated, Section 6-51-108(b), is amended by deleting the first sentence and substituting instead the following:

Upon the expiration of a year from the date any annexed territory for which a plan of service has been adopted becomes a part of the annexing municipality, and annually thereafter until services have been extended according to such plan, there shall be

prepared and published in a newspaper of general circulation in the municipality a report of the progress made in the preceding year toward extension of services according to such plan, and any changes proposed therein. The governing body of the municipality shall publish notice of a public hearing on such progress reports and changes, and hold such hearing thereon.

Tennessee Code Annotated, Section 6-51-108, is further amended by adding the following new subsection:

(c) In addition to the remedy in subsection (b), any owner of property in an annexed territory to which such plan and progress report are applicable may file a suit for mandamus to compel the governing body to comply with the requirements of the plan of services. The court may fashion the most appropriate remedy, including but not limited to, a refund of taxes paid for services covered by the plan of services that the municipality did not deliver.

SECTION 22. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 23. This act shall take effect July 1, 1998, the public welfare requiring it.